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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,940	07/18/2005	Oren Globberman	384/04315	3773
44909	7590	02/03/2009		
PRTSI			EXAMINER	
P.O. Box 16446			HOLL, JONATHAN A	
Arlington, VA 22215				
			ART UNIT	PAPER NUMBER
			4177	
			MAIL DATE	DELIVERY MODE
			02/03/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/517,940

**Applicant(s)**

GLOBERMAN, OREN

**Examiner**

JONATHAN HOLLM

**Art Unit**

4177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

**Species I:** embodiment of the invention wherein said flaring occurs at a longitudinal end of said stent (figs 9A-9D).

**Species II:** embodiment wherein said flaring occurs on a side of said stent (Fig. 9F).

#### **Subspecies Group A:**

**Subspecies A-1:** embodiment of the invention wherein "said two elongate extensions each comprise a plurality of hinges." (Page 7, Line 25).

**Subspecies A-2:** embodiment of the invention wherein "only one of said at least two elongate extensions comprises a plurality of hinges" (Page 8, Lines 4-5).

#### **Subspecies Group B:**

**Subspecies B-1:** embodiment of the invention wherein "at least two of said plurality of hinges have bending axes that are oblique to a device plane of said body, said device plane being a substantially two-

dimensional mathematical surface conforming to the general geometry of the device" (Page 8, Lines 6-9).

**Subspecies B-2:** embodiment of the invention wherein "at least one of said plurality of hinges has a preferred bending direction in a device plane of said body, said device plane being a substantially two-dimensional mathematical surface conforming to the general geometry of the device" (Page 8, Lines 10-13).

**Subspecies Group C:**

**Subspecies C-1:** embodiment of the invention wherein "said extensions extend axially towards said body, prior to moving apart of said anchor points" (Page 9, Lines 1-2).

**Subspecies C-2:** embodiment of the invention wherein "said extensions extend axially away from said body, prior to moving apart of said anchor points" (Page 8, Lines 31-32).

Applicant is required, in reply to this action, to elect a single species and each of the groups of corresponding subspecies to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above in the following manner:

**Species I:** Claims 31-33

**Species II:** Claims 34-36

**Subspecies A-1:** Claims 2-6

**Subspecies A-2:** Claim 7

**Subspecies B-1:** Claim 8

**Subspecies B-2:** Claims 9-10

**Subspecies C-1:** Claim 20

**Subspecies C-2:** Claim 21

The following claim(s) are generic: 1, 11-19, 22-30, and 37-43.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons:

4. There is a common technical feature shared among species I and II, and subspecies groups A-C, that does not provide contribution to the art as evidence of US Patent Number 6,428,550 (Vargas et al), filed 18 May 1999, that shows the common

technical feature of

of a body (128) defining at least two anchor points, which body is adapted to be deformed so that the two anchor points are moved relative to each other; (it is the examiner's position that "anchor points" are any point that my secure said body to its environment, such as points connecting elements 122 and 128 in the '550 patent)

at least two elongate extensions(122/122'), each extension fixed to one anchor point;

a bridge (126) coupling at least two of said extensions to each other; and

at least two hinges (124/124') defined on at least one of said extensions, two of said at least two hinges having different preferred bending directions and being defined on one extension.

wherein said implant is a stent comprising

a plurality of extensions such that said plurality of extensions define a flared section for said stent (figures 9-13; columns 6-8, lines 64-21).

In regards to species I and II and further subspecies A-1 through C-2, each of the species has a respective special technical feature recited in the respective claims for that species that are not recited in the claims of the other species.

5. A telephone call was made to Mr. Martin Moynihan on 26 January 2009 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN HOLLM whose telephone number is (571)270-7529. The examiner can normally be reached on Monday - Friday 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sam Yao can be reached on 571-272-1224. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JAH/

/Sam Chuan C. Yao/  
Supervisory Patent Examiner, Art Unit 4111